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May 21, 2008

Mr. Panama Bartholomy
Advisor to Commissioner Karen Douglas
California Energy Commission
1516 Ninth Street, MS-33
Sacramento, CA 95814

Dear Mr. Bartholomy:

The Orange County Transportation Authority (OCTA) appreciates the opportunity to comment on the draft Land Use Subgroup of the Climate Action Team (LUSCAT) Submission to the California Air Resources Board (CARB) Scoping Plan on Local Government, Land Use, and Transportation, dated May 5, 2008. As CARB works to fulfill the aggressive timeline outlined under AB 32 – the Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006), OCTA looks forward to participating as a valuable resource for background and expertise not only in the unique transportation planning and programming functions within the Southern California region, but for specific sector strategies, such as congestion management.

I. Greenhouse Gas Targets for the Land Use and Transportation Sector

One of the central recommendations within the LUSCAT report is the creation of greenhouse gas (GHG) emission reduction targets for the land use and transportation sector at both the state and regional level. As acknowledged within the report, land use, transportation policies, and actions that reduce GHGs take time to implement. Therefore, any targets set for the 2020 deadline should be based on the time projections associated with such long-term changes. Immediate reductions will be unlikely due to the high costs and time intensity associated with coordinating any changes between the multiple entities responsible for implementing transportation and land use planning efforts. Moreover, targets should only be created after all measures implementing AB 32 have been adopted. Otherwise, any created targets will be premature, potentially forcing regions to be dependent on ever-changing targets.

If included within the Scoping Plan, state and regional GHG emission reduction targets for the land use and transportation sector should only be adopted after a broad, inclusive stakeholder process to ensure all entities potentially affected by the targets have the opportunity to participate. Like the report states, these targets should be based on expected emissions from all sectors. They should also first take into account emissions reductions that can be achieved through other mechanisms adopted by CARB, such as improved vehicle emission standards. Furthermore, these targets should be advisory, with flexibility granted to local agencies in the means of achieving such goals. By mandating specific strategies or otherwise constraining the ability of local agencies to respond to the immediate needs of their region, transportation project implementation and the corresponding achievement of GHG reductions will only be hampered. Any language that would directly tie in project funding or create liability for local agencies if targets are not achieved should be avoided to prevent additional time delays in meeting new GHG standards.

OCTA believes that the best way to meet the goals of AB 32 is through incentive-based compliance measures, rather than punitive policies. LUSCAT's recommendation that the State develop an incentive structure to encourage and support regional agencies in accomplishing the targets set forth is therefore welcomed. Recent attempts at creating such incentive structures, however, have been problematic due to a lack of correlation between the recipient of the incentive and the entity which carried the burden. Any incentive developed should be granted equitably to all entities working towards meeting the targets developed.

Finally, the report notes the need to ensure consistency between local planning efforts and the regional targets. In order to accomplish this goal, it will be necessary to ensure planning processes are aligned with each other. Inconsistencies between transportation and local land-use planning should be avoided; both the regional transportation plan (RTP) and local general plans should be subject to similar requirements to ensure that adopted policies can be implemented.

II. Blueprint Planning

The Blueprint Program is used throughout the LUSCAT report as an example of the preferred vehicle for integrating GHG emission reduction policies into both the RTPs and the general plans. Furthermore, it is recommended that GHG emission reduction targets be integrated into the blueprint planning process. As previously stated above, regions should be given flexibility to achieve any agreed upon targets. Targets should not be tied to any specific transportation planning document, which would only create liabilities for transportation planning agencies who will not have the authority to ensure specified reductions will be achieved.

In addition, although it is true that most regions have developed a blueprint-like document, regional differences in how these documents operate must be acknowledged. Within the Southern California Association of Governments (SCAG) region, the county transportation commissions, including OCTA, act as the transportation planning agencies. Although SCAG adopts the RTP for the region, the county transportation commissions maintain programming authority, and have the responsibility for submitting the planned transportation projects in their region for inclusion within the RTP. For the Orange County area, the adopted RTP is to be consistent with the long range transportation plan created by OCTA, the 30-year plan for Orange County transportation projects. The land-use portion of the RTP is then implemented through local general plans, while county transportation commissions generally implement the transportation element.

SCAG recently adopted the Compass Blueprint land use strategy. This strategy is non-binding on transportation commissions and local jurisdictions within the region. Cities and counties retain the authority to choose which portions governing land-use to implement. OCTA does not possess land use authority so any changes in land use policy would be dependent on city and county decisions.

Recognizing the differences between the various regions, a one-size-fits-all policy should not be adopted. Any adopted policy should consider the established role of county transportation commissions.

Many county transportation commissions are making efforts to address environmental concerns. For example, on November 7, 2006, nearly seventy percent of Orange County voters approved the renewal of Measure M, a half-cent local transportation sales tax, for an additional 30 years beginning in 2011 until 2041. Included within Renewed Measure M (M2), OCTA plans to undertake many actions that are advocated under the LUSCAT report, including funding for bus rapid transit, increased Metrolink service, and funding for OCTA's Go Local program, which grants money to local cities to increase connections to transit. Furthermore, M2 funding is included for environmental mitigation, and a GHG baseline study will be conducted. Any attempts to alter transportation planning policy, or create new funding sources, should acknowledge the established role and efforts of county transportation commissions.

Furthermore, the California Transportation Commission (CTC) recently adopted new guidelines to address GHG emissions within the RTP. The guidelines are the result of a multi-stakeholder effort that included the participation of transportation agencies including OCTA, environmental stakeholders, and land-use entities. These policies represent a consensus approach by the participating entities of how to address GHG emission reductions in the transportation planning and programming process. Reductions that will be achieved as a product of the guidelines should be accurately reflected in future LUSCAT and CARB documents. In addition, in the future, LUSCAT and CARB should look not only at the flexibility and the variety of choices addressed in the guidelines, but also the stakeholder process as a model for how to create consensus in the transportation and land use sector.

III. Transportation Funding

The LUSCAT report makes several references to tying transportation funding to GHG emission reductions. In one instance, the LUSCAT report specifically states that the CTC, in addition to adding GHG considerations to the RTP process, will request regional transportation planning agencies and the California Department of Transportation to provide lists of how their nominated projects will affect GHG emissions. Furthermore, the report states that the CTC plans on including GHG emission analysis as part of their State Transportation Improvement Program funding decisions.

As previously mentioned, Orange County recently passed M2, a local sales tax measure which will raise $11.8 billion to fund transportation projects within the county, approved by more than a two-thirds vote. Many other counties within the state have similar sales tax measures. When considering measures to reduce GHG emissions, LUSCAT and CARB should ensure that sales tax measures will be protected. State transportation funding should likewise maintain the flexibility to allow for implementation of currently programmed projects.

IV. California Environmental Quality Act Guidelines

As the LUSCAT report states, Senate Bill 97 (Chapter 185, Statutes of 2007) requires the Office of Planning and Research (OPR) to develop California Environmental Quality Act (CEQA) guidelines by July 1, 2009. CARB is then to adopt these guidelines on or before January 1, 2010. Although the LUSCAT report acknowledges recent attempts by local government to include GHG climate change analysis within their environmental documents, there is still a need for a uniform methodology to conduct such analysis. In the absence of such uniformity, agencies will continue to have to guess at how to best analyze for effects previously neither measured nor required under CEQA.

An offshoot of such random analysis is the multiplicity of standards placed on different agencies. Currently, in order to best ensure that an agency satisfies such analysis, an agency would have to sift through multiple settlement agreements and environmental documents to deduce at how to best account for GHG emissions. Even after such analysis, this still may not suffice. Until uniform guidelines are established, pre-emptive attempts to enforce such accounting are not helpful.

Moreover, due to the lack of such guidance, different agencies and entities have stepped forward offering their recommendations on such analysis. For instance, as mentioned within the LUSCAT report, the California Air Pollution Control Officers Association released a guide on how to address GHG emission from projects subject to CEQA. Because these standards are being published prior to uniform guidelines, it remains unclear whether such actions will be sufficient. Inconsistencies and confusion will result from such piecemeal guidance. Instead, it should be clear that the guidelines released by the OPR will be the definitive method of analyzing GHG emissions in environmental analysis documents.

V. Congestion Pricing

Congestion pricing is one of two pricing strategies LUSCAT recommends CARB consider as methods of GHG emission reductions. OCTA, as the operator of the 91 Express Lanes, one of the first successful congestion pricing projects in California, can provide valuable insight into how such projects can be implemented.

The 91 Express Lanes create another mobility option for customers traveling between Riverside and Orange counties. In customer satisfaction surveys taken in both 2006 and 2007, over 80 percent of respondents reported that they were satisfied with the toll lanes.

The use of congestion management pricing is designed to optimize the traffic flow by managing demand of the 91 Express Lanes at free-flow speeds. To accomplish this, hourly traffic volumes on the 91 Express Lanes are continually monitored. Once traffic volume levels go above 3,128 vehicles per hour, the lanes will be flagged for further monitoring. If levels remain at an average volume of over 3,200 vehicles per hour, a rate adjustment is made. The times in which traffic flow reaches this peak are known as super peak hours. Once an hourly toll is raised, it is frozen for six months. For non-super peak hours, toll prices are adjusted annually by inflation. Through the use of this structure, commuters report an average savings of 30 minutes on their drive by using the toll roads. Furthermore, over 60 percent of respondents in the 2007 customer satisfaction survey admit that they would alter their drive times to correspond with lower priced times.

A unique feature of the 91 Express Lanes is the 3+ carpool lane, where those vehicles with 3 or more passengers have the ability to use the lanes for free at most times. Ridesharing is thereby actively encouraged through these incentives.

VI. Costs of Implementation

An assumption is made within the LUSCAT report that the costs of implementing the sector strategies would have a net zero cost through 2020. In order to back such assumption, the report goes on to suggest that existing funding revenues for land-use and transportation activities could be shifted to meet the state's GHG targets, while continuing to meet the remaining state land-use and transportation goals.

These conjectures appear to contradict prior statements made in the report, such as in the 10th principle, which clearly states that local government will need financial and regulatory assistance and implementation flexibility in order to meet the GHG goals. Furthermore, in discussing consistent planning and implementation funding, the report refers to the need to develop new funding mechanisms to support the planning activities and plan implementation due to the lack of funding or alternative financing mechanisms available for local government to reduce GHG emissions, particularly related to infrastructure or transit.

There will be costs of implementing the strategies proposed in the LUSCAT report. Furthermore, the proposition that funding can simply be shifted is not realistic. As discussed in prior sections, many projects are currently programmed after already heavy investment. Due to repeated shortages in state transportation funding, many regions have passed local sales tax measures to assist in funding transportation projects. Because the voters approved a certain spending plan for those revenues, any shifting of those resources would go against voter intent.

In order to fund these proposals, new, innovative forms of funding will be needed. Examples of such sources could be a cap-and-trade program or other market mechanism, and public-private partnerships. It is also worth noting the need for stable transportation funding at the state level. If dedicated funding continues to be shifted, there will be difficulties in implementing AB 32 policies.

VII. Stakeholder Participation

AB 32's goal of reducing GHG emissions to 1990 levels by 2020 is a groundbreaking endeavor, which requires that the strategies chosen are not only technologically realistic, but also economically feasible. Taking into account the accelerated process, a wide variety of stakeholder input is imperative to ensure that the process can practically be implemented. OCTA recommends that in future stakeholder meetings transportation interests throughout the state be well represented, given the number of proposals that will affect the transportation industry.

Thank you for the opportunity to provide comments on the proposed recommendations. OCTA looks forward to continuing to collaborate with LUSCAT and CARB to promote technologies that allow us to provide cost-effective, reliable, and safe transportation to our customers while doing our part to improve California's air quality. If you have any questions please contact me at (714) 560-5584, or Wendy Villa, State Relations Manager, at (714) 560-5595.

Sincerely,

Arthur T. Leahy

Arthur T. Leahy
Chief Executive Officer

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